

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN**

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Hugh C. Smith

Court File No. \_\_\_\_\_

Plaintiff,

v.

**NOTICE OF REMOVAL OF  
ACTION**

Unum Life Insurance Company of America,

Defendant.

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TO: THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT  
OF WISCONSIN:

Defendant Unum Life Insurance Company of America (“Unum”) removes the above-titled action from the Circuit Court for the County of Douglas, State of Wisconsin to the United States District Court for the Western District of Wisconsin, and allege as follows:

1. This Court has original jurisdiction under 28 U.S.C. § 1331 and 29 U.S.C. § 1132(e)(1) and this action may be removed pursuant to 28 U.S.C. § 1441(a) in that at the time of the commencement of this action and filing of this notice:

- a. Plaintiff seeks recovery of employee benefits that were offered pursuant to a plan, fund or program (the “Plan”);
- b. The Plan is an “employee-welfare-benefit plan” within the meaning of 29 U.S.C. §1002(1);
- c. The Plan was established or maintained by an employer as defined by Employment Retirement Income Security Act of 1974 (“ERISA”), and Plaintiff was a Plan “participant” and/or “beneficiary” as defined by ERISA, 29 U.S.C. §1002(1), (5) and (7); and
- d. The Plan and any claims related thereto is controlled by ERISA, 29 U.S.C. §1001, et seq.

2. This Court also has original jurisdiction under 28 U.S.C. § 1332(a) and this action is one that may be removed pursuant to 28 U.S.C. § 1441(a) in that at the time of the commencement of this action and the filing of this Notice:

- a. Unum is incorporated under the laws of the State of Maine; its principal place of business is Portland, Maine; and it is therefore a citizen of the State of Maine;
- b. Plaintiff is a resident of Douglas County, Wisconsin and is therefore a citizen of the State of Wisconsin; and
- c. The matter in controversy between Plaintiff and Defendant is an amount which exceeds the sum of \$75,000.

3. Unum first received a copy of the Summons and Complaint on or after January 10, 2020. Thirty days after such receipt has not yet expired.

4. Attached as **Exhibit A** to this Notice is a copy of all summons, pleadings, and orders received by Unum to date.

5. Unum will provide a copy of this Notice to Plaintiff and will file a copy of this Notice with the Clerk of Circuit Court for the County of Douglas, State of Wisconsin.

WHEREFORE, Defendant Unum Insurance Company removes this action from Douglas County District Court, State of Wisconsin to the United States District Court for the Western District of Wisconsin.

**MESSERLI & KRAMER P.A.**

Dated: January 28, 2020

s/Terrance J. Wagener

Terrance J. Wagener (#1038559)  
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Minneapolis, MN 55402-4218  
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**ATTORNEYS FOR DEFENDANT**

**VERIFICATION**

I, Terrance J. Wagener, declare as follows:

I am the attorney for Defendant, and have read the foregoing Notice of Removal of Civil Action to United States District Court and know the contents thereof. I am informed and believe that the matters stated therein are true and on that ground allege that the matters stated therein are true.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 28<sup>th</sup> day of January, 2020 at Minneapolis, Minnesota.

s/Terrance J. Wagener

Terrance J. Wagener

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